

SUBCHAPTER F. COST REPORTING AND AUDIT REQUIREMENTS

§1187.71. Cost reporting.

(a) A nursing facility shall report costs to the MA Program by filing an acceptable MA-11 with the Department. Costs as reported in the MA-11 are:

(1) *Resident care costs.*

- (i) Nursing.
- (ii) Director of nursing.
- (iii) Related clerical staff.
- (iv) Practitioners.
- (v) Medical director.
- (vi) Utilization and medical review.
- (vii) Social services.
- (viii) Resident activities.
- (ix) Volunteer services.
- (x) Pharmacy-prescription drugs.
- (xi) Over-the-counter drugs.
- (xii) Medical supplies.
- (xiii) Laboratory and X-rays.
- (xiv) Physical, occupational and speech therapy.
- (xv) Oxygen.
- (xvi) Durable medical equipment.

(xvii) Beauty and barber services.

(xviii) Other resident care costs.

(2) *Other resident related costs.*

(i) Dietary and food.

(ii) Laundry.

(iii) Housekeeping.

(iv) Plant operation and maintenance.

(v) Other resident related costs.

(3) *Administrative costs.*

(i) Administrator.

(ii) Office personnel.

(iii) Management fees.

(iv) Home office costs.

(v) Professional services.

(vi) Determination of eligibility.

(vii) Gift shop.

(viii) Advertising.

(ix) Travel/entertainment.

(x) Telephone.

(xi) Insurance.

(xii) Other interest.

(xiii) Legal fees.

- (xiv) Transportation equipment depreciation.
- (xv) Transportation equipment interest.
- (xvi) Equipment rental.
- (xvii) Federal/State Corporate/Capital Stock Tax.
- (xviii) Officers' life insurance.
- (xix) Amortization-administrative costs.
- (xx) Other administrative costs.

(4) *Capital costs.*

- (i) Depreciation, other than transportation equipment.
- (ii) Interest on capital indebtedness, other than transportation equipment.
- (iii) Real estate taxes or reasonable payment made in lieu of real estate taxes.
- (iv) Rent of facility.
- (v) Amortization - capital costs.

(b) The MA-11 shall identify allowable direct, indirect, ancillary, labor and related party costs for the nursing facility and residential or other facility.

(c) The MA-11 shall identify costs of services, facilities and supplies furnished to the nursing facility by a related party.

(d) The MA-11 shall be based on accrual basis financial and statistical records maintained by the nursing facility. The cost information contained in the cost report and in the nursing facility's records shall be current, accurate and in sufficient detail to support the reported costs.

(e) An acceptable cost report is one that meets the following requirements:

(1) Applicable items are fully completed in accordance with the instructions incorporated in the MA-11, including the necessary original signatures on the required number of copies.

(2) Computations carried out on the MA-11 are accurate and consistent with other related computations.

(3) The treatment of costs conforms to the applicable requirements of this chapter.

(4) Required documentation is included.

(5) The MA-11 is filed with the Department within the time limits in §§1187.73, 1187.75 and 1187.76 (relating to annual reporting; final reporting and reporting for new nursing facilities).

(f) The nursing facility shall maintain adequate financial records and statistical data for proper determination of costs under the MA Program. The financial records shall include ledgers, books, records and original evidence of cost -- purchase requisitions, purchase orders, vouchers, vendor invoices, requisitions for supplies, inventories, time cards, payrolls, bases for apportioning costs and the like -- which pertain to the determination of reasonable costs.

(g) Records and other information described in subsection (d) are subject to periodic verification and audit. Costs which are adequately documented are allowable.

(h) The nursing facility shall maintain the records pertaining to each cost report for at least 4 years following the date the nursing facility submits the MA-11 to the Department.

§1187.72. Cost reporting for Medicare Part B type services.

(a) Nursing facilities shall utilize Medicare as a primary payor resource when appropriate, under §1187.102 (relating to utilizing Medicare as a resource).

(b) If Medicare is the primary payor resource, the nursing facility shall exclude from allowable costs operating costs incurred in or income derived from the provision of Medicare Part B coverable services to nursing facility residents. The nursing facility shall attach to the MA-11 a copy of the cost report the nursing facility submits to Medicare for the Part B services and, when available, submit a copy of the Medicare final audit, including audit adjustments.

(c) If there is a discrepancy between the costs on the Medicare cost report or, if available, the Medicare audit report, and the adjustments made by the nursing facility on the MA-11 to exclude Medicare Part B costs, the Department will make the necessary adjustments to conform to the Medicare report.

§1187.73. Annual reporting.

(a) The fiscal year, for purposes of the MA Program for nursing facilities, shall be either January 1 through December 31 or July 1 through June 30 as designated by the nursing facility. The fiscal year designated by the nursing facility may not be changed except in the event of the sale of the nursing facility to a new owner.

(b) A nursing facility shall submit an acceptable MA-11 to the Department within 120 days following the June 30 or December 31 close of each fiscal year as designated by the nursing facility. An acceptable MA-11 is one that meets the requirements in §1187.71(e) (relating to cost reporting). No request for an extension to file an annual cost report shall be granted except in accordance with §1187.1(d)(2) (relating to policy). The report shall be prepared using the accrual basis of accounting and shall cover a fiscal period of 12 consecutive months.

§1187.74. Interim reporting.

A nursing facility may not file interim cost reports.

§1187.75. Final reporting.

(a) A nursing facility that enters into a termination agreement or an agreement of sale, or is otherwise undergoing a change of ownership or is withdrawing or being terminated as a nursing facility, shall file an acceptable final MA-11 cost report as well as outstanding annual cost reports with the Department within 90 days of the effective date of the termination, transfer, withdrawal or change of ownership and shall provide financial and statistical records to the Department for auditing. An acceptable MA-11 is one that meets the requirements in §1187.71(e) (relating to cost reporting).

(b) A nursing facility may request an extension to file its final cost reports as required by subsection (a) of up to 30 days from the date the cost reports are due if the nursing facility's request is received by the Department prior to the expiration of the 60th day of the 90-day period specified in subsection (a); the reasons for the extension request and the amount of time requested are specified; and the requirements of §1187.1(d) (relating to policy) are met. Further extensions will not be granted. The

denial of a request for an extension is an adverse action appealable in accordance with §1187.141 (relating to nursing facility's right to appeal and to a hearing). Failure to appeal a denial within the time period provided precludes any appeal or challenge relating to the denial in another proceeding.

§1187.76. Reporting for new nursing facilities.

Nursing facilities beginning operations during a fiscal period shall prepare an MA-11 from the date of certification for participation to the end of the nursing facility's fiscal year.

§1187.77. Auditing requirements related to cost report.

(a) The Department will audit acceptable cost reports filed to verify nursing facility compliance with:

- (1) This chapter.
- (2) Chapter 1101 (relating to general provisions).
- (3) The schedules and instructions attached to the MA-11.

(b) A nursing facility shall make financial and statistical records to support the nursing facility's cost reports available to State and Federal representatives upon request.

(c) The Department will conduct audits in accordance with auditing requirements set forth in Federal regulations and generally accepted government auditing standards.

(d) The Department will conduct an audit of each acceptable cost report with an end date of June 30, 1996, or December 31, 1996, and thereafter within 1 year of the Department's acceptance of the cost report. This subsection will not apply if the nursing facility is under investigation by the Attorney General.

(e) The auditor will certify to the Department the allowable cost for the nursing facility to be input into the NIS database for use in determining the median costs.

(f) A nursing facility that has certified financial statements, Medicare intermediary audit reports with adjustments and Medicare reports for the reporting period shall submit these reports with its cost report, at audit or when available.

§1187.78. Accountability requirements related to resident personal fund management.

(a) A nursing facility may not require residents to deposit their personal funds with the nursing facility. A nursing facility shall hold, safeguard and account for a resident's personal funds upon written authorization from the resident in accordance with the requirements of this section and other applicable provisions in State and Federal law.

(b) A resident's personal funds may not be commingled with nursing facility funds or with the funds of a person other than another resident.

(c) A resident's personal funds in excess of \$50 shall be maintained in an interest bearing account, and interest earned shall be credited to that account.

(d) A resident's personal funds that do not exceed \$50 may be maintained in a noninterest bearing account, interest bearing account or petty cash fund.

(e) Statements regarding a resident's financial record shall be available upon request to the resident or to the resident's legal representative.

(f) The nursing facility shall notify each resident that receives MA benefits when the amount in the resident's personal fund account reaches \$200 less than the SSI resource limit for one person.

(g) Within 60 days of the death of a resident, the nursing facility shall convey the resident's funds and a final accounting of those funds to the individual or probate jurisdiction administering the resident's estate.

(h) The nursing facility may not impose a charge against the personal funds of a resident for an item or service for which payment is made under MA or Medicare.

(i) The nursing facility shall maintain records relating to its management of residents' personal funds for a minimum of 4 years. These records shall be available to Federal and State representatives upon request.

(j) The nursing facility shall purchase a surety bond or otherwise provide assurances of the security of personal funds of the residents deposited with the nursing facility.

§1187.79. Auditing requirements related to resident personal fund management.

(a) The Department will periodically audit residents' personal fund accounts.

(b) If discrepancies are found at audit, the nursing facility shall make restitution to the residents for funds improperly handled, accounted for or disbursed. The

Department may sanction the nursing facility in accordance with Subchapter I (relating to enforcement of compliance for nursing facilities with deficiencies).

§1187.80. Failure to file a cost report.

(a) Failure by the nursing facility to file a timely cost report, other than a final cost report and annual cost reports due along with a final cost report, may result in termination of the nursing facility's provider agreement and will result in adjustment of the nursing facility's per diem rate as provided in this subsection. A report is considered timely filed if the cost report is received within 120 days following the June 30 or December 31 close of each fiscal year as designated by the nursing facility, or if an extension has been granted, within the additional time allowed by the extension. The Department may also seek injunctive relief to require proper filing, as the Department may deem is in the best interest of the efficient and economic administration of the MA Program:

(1) If a cost report is not timely filed, the nursing facility's per diem rate will be adjusted downward by 5% beginning the first day of the next month and will remain reduced at that rate until an acceptable cost report is filed with the Department.

(2) If a cost report is timely filed and is unacceptable, the Department will return the cost report to the facility for correction. If an acceptable cost report is not filed by the end of the 30th day from the date of the letter returning the unacceptable report from the Department, the nursing facility's per diem rate will be adjusted downward by 5% beginning the first day of the next month and will remain reduced at that rate until an acceptable cost report is filed with the Department.

(b) Failure by the nursing facility to file a timely final cost report and outstanding annual cost reports will result in:

(1) Payment to the nursing facility for net operating costs for cost reporting periods involved determined on the basis of the nursing facility's

peer group median, prior to the percent of median adjustment in accordance with §1187.96 (relating to price and rate setting computations), for the last fiscal period for which the nursing facility has an acceptable cost report on file.

(2) No payment to the nursing facility provider for capital costs for cost report periods involved.

SUBCHAPTER G. RATE SETTING

§1187.91. Database.

The Department will set rates for the case-mix payment system based on the following data:

(1) *Net operating costs.*

(i) The net operating prices for year 1 of implementation will be established based on the most recent audited nursing facility cost report adjusted for inflation, for those nursing facilities receiving audit reports issued by the Department on or before March 31, 1995.

(ii) If an Intergovernmental Transfer Agreement has been executed on or before January 15, 1996, and the State Plan Amendment with sufficient funds to carry out the terms of this subparagraph has been approved by Health Care Financing Administration (HCFA), the net operating prices for year 2 of implementation will be established based on the following:

(A) Audited nursing facility costs for the 2 most recent years available in the NIS database adjusted for inflation. This database includes audited MA-11 cost reports that are issued by the Department on or before March 31, 1996, of the July 1 price setting period.

(B) If a nursing facility that has participated in the MA Program for 3 or more consecutive years has fewer than two audited cost reports in the NIS database that are issued by the Department on or before March 31, 1996, of the July 1 price setting period, the Department will use reported costs, as adjusted to conform to Department regulations, for those years not audited within 15 months of the date of acceptance, until audits have been completed and are available in the NIS database for price setting.

(C) If a nursing facility, that has not participated in the MA Program for 2 consecutive years, has fewer than two